

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE NO.181 OF 1983

For Approval and Signature :

Hon'ble Mr.Justice N.J .Pandya

and

S Hon'ble Mr.Justice S.D.Pandi

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The Commissioner of Income Tax,Baroda

versus

Navrachna Education and Welfare Society,Baroda

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Appearance :

Mihir Thakore with Manish R.Bhatt for the petitioner

Respondents served.

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CORAM : N.J.PANDYA & S.D.PANDIT,JJ

Date of decision : 30-8-1996.

ORAL JUDGMENT

Per N.J.Pandya,J.

The assessee is running an educational institution and also an eye clinic as a trust. The provisions of the Societies' Registration Act are referred to in the trust deed and in case of its becoming defunct the remaining assets are to be utilised under Section 14 of the said Act for being giving over to other similar institutions.

2 In this background reference questions referred to us are to be considered. The questions reads as under :

1. "Whether on the facts and in the circumstances the assessee was eligible to the exemption under circumstances of the case, the Tribunal was right in law in coming to the conclusion that the assessee was eligible to the exemption

under sec.10 (22) of the Income Tax Act, 1961?

2. "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the assessee trust was eligible to the exemption under section 10 (22A) of the Income Tax Act 1961 ?

3. The Commissioner of Income Tax as well as the tribunal dealt with similar questions in respect of very assessee-institution and had consistently held in their favour. In doing so that the benefit of earlier occasion where assessee of similar type had claimed exemption, that institution was Sindh Vidhya Mandir Trust.

4. The decision given in the matter of that trust came before this court and in a decision reported in 142 I.T.R., P.633, it is clearly held that the trust would be covered in the exempted institution and if it is running an education institution, it can certainly claim benefit under Section 10 (22) of the Income Tax Act. If that very trust is also running a clinic, the benefit under section 10 (22) (A) will also be available to it.

5. That is exactly the view taken by the authority below. In view of that decision we respectfully agree and we answer the questions against the tribunal and in favour of the assessee. The reference is disposed off accordingly with no order as to cost.

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